

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-60772-CIV-DIMITROULEAS

THOMAS A. LUKEN, as Assignee for
BUC INTERNATIONAL CORP.,

Magistrate Judge Rosenbaum

Plaintiff,

vs.

INTERNATIONAL YACHT COUNCIL
LIMITED, BARBARA TIERNEY, MLS
SOLUTIONS, INC., WILLIAM PAZOS,
FLORIDA YACHT BROKERS ASSOCIATION,
INC., and BRADFORD YACHT SALES, INC.,

Defendants.

ORDER APPROVING REPORT AND RECOMMENDATIONS

THIS CAUSE is before the Court upon the Plaintiff Thomas Luken's Motion for Award of Attorneys Fees and Costs [DE 1467], and the Report and Recommendation [DE 1481] of Magistrate Judge Robin S. Rosenbaum, dated January 14, 2009. Though no objections were filed, the Court has conducted a *de novo* review of the entire court record herein, including the underlying Motion, Response [DE 1472], Reply [DE 1475], the Report and Recommendation [DE 1481], the parties' affidavits and exhibits, and is otherwise fully advised in the premises.

On April, 2004, the Plaintiff prevailed at jury trial on certain copyright infringement claims in this case [DE 1125, 1137]. The Plaintiff seeks an award of attorneys' fees. This Court, upon the Magistrate Judge's Report and Recommendation, granted attorneys' fees only as to the reasonable fees associated with opposing the Defendants' untimely request for a "virtual identity" standard in the jury instruction and the Defendants' objections to the introduction of the admission of an expert accountant's damage calculation report (which Defendants had

waived in a joint stipulation), and with opposing the Defendants' appeal regarding those issues. [DE 1458]. Pursuant to the Order, Plaintiff has submitted a Motion itemizing the fees and costs associated with these issues. The Magistrate bifurcated the hearing, and the matter of attorney's fees is not yet ripe.

The Court agrees with the reasoning and analysis of the Magistrate Judge in her recommendation to grant in part the Plaintiff's Motion. The Plaintiff may only recover costs for which he demonstrated were expended necessarily for use in the case. Those costs include the court reporting costs that are reimbursable under 28 U.S.C. §1920 and specifically detailed as being for transcripts, and the cost of copies (but not other office supplies).

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Magistrate Judge's Report and Recommendation [DE 1481] is hereby **ADOPTED**;
2. Plaintiff's Motion for Award of Costs [DE 1467-2], is hereby **GRANTED, in part, and DENIED, in part**;
3. Plaintiff shall recover \$2,060.25 in costs from Defendants International Yacht Council, Ltd. and MLS Solutions, Inc.
4. This case shall remain closed.
5. Plaintiff's Motion for Attorney's Fees [DE-1467-1] remains pending.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 10th day of March, 2009.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Counsel of record